

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 137 OF 2014
WITH
CIVIL APPLICATION NO. 129 OF 2015
IN
FIRST APPEAL NO. 137 OF 2014**

The New India Assurance Co. Ltd. ... Appellant
V/s.
Suresh Bapurao Burkule & Anr. ... Respondents

Mr. R.S. Pawar for Respondent No.1 and Applicants in CAF/129/2015.
Ms. Urmila K. Sanil for the Appellant.

CORAM : K.K. SONAWANE, J.

DATE : 1st AUGUST, 2018.

P.C. :

1 Heard learned Counsel for the applicants and learned Counsel for the appellant-Insurance Company. Applicants moved the present application seeking permission to withdraw the compensation amount deposited before the M.A.C.T. Nashik in M.A.C.P. No.590 of 2009. The appellant-Insurance Company preferred an appeal under Section 173 of the Motor Vehicles Act and put in controversy the directions issued by the learned Tribunal in regard to pay and recover policy. In such circumstances in view of grounds raised in the Appeal, there is no propriety to preclude the applicant-claimant to avail the benefits of order of compensation passed by

the learned Tribunal. Therefore, there is no impediment to allow the applicants to withdraw atleast Rs.1.75 lakhs from the total sum of compensation deposited before the learned Tribunal, Nashik. Definitely it would sub-serve the purpose in the interest of justice and would not cause any injustice and prejudice to the appellant.

2 Hence, application stands allowed. The applicants are hereby permitted to withdraw the total sum of Rs.1.75 lakhs from the amount of compensation deposited before the M.A.C.T. Nashik, in M.A.C.P. No.590 of 2009 subject to condition that the applicants-original claimants shall furnish an undertaking that in case any contingency arises, the applicants would refund the amount so withdrawn forthwith. It is further directed that rest of the balance amount deposited before the M.A.C.T. Nashik, be invested in F.D.R. account in any nationalized bank for period of two years or till disposal of the present appeal on merits whichever is earlier with liberty to renew the F.D.R. in future, if required.

3 The concerned Registrar of M.A.C.T. Nashik to take requisite steps for disbursement of compensation amongst the applicants and file the report to this Court.

4 The Civil Application stands disposed of in above terms.

Waishali
Sushil
Waghmare

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by Waishali
Sushil
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(K.K. SONAWANE, J.)